

IN THE 413TH JUDICIAL DISTRICT COURT
JOHNSON COUNTY, TEXASCAPITAL CASE

EX PARTE

§ **Trial Cause No. F45059-B**
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**Mark Anthony Soliz
Applicant.****MOTION FOR STAY OF EXECUTION DATE**

Mark Anthony Soliz, through counsel, respectfully moves this Court for a stay of his execution date currently scheduled for **September 10, 2019** pursuant to Article 43.141(d)(1). Mr. Soliz makes this motion for stay in light of the need for further proceedings regarding the filing of a subsequent application under Article 11.071 of the Texas Code of Criminal Procedure. Mr. Soliz files this motion to allow his counsel sufficient time to fully investigate and develop a claim regarding newly discovered evidence. In support thereof, the undersigned states as follows:

1. On April 8, 2019, the 413th District Court in and for Johnson County, Texas issued a death warrant scheduling Mr. Soliz for execution on September 10, 2019.
2. On August 9, 2019, Mr. Soliz filed a subsequent application for a writ of habeas corpus under Article 11.071 of the Texas Code of Criminal Procedure.
3. Mr. Soliz would submit that because he suffers from Fetal Alcohol Spectrum Disorder (FASD) he should be categorically exempted from the death penalty under the Eighth Amendment to the United States Constitution on the grounds that FASD is the “functional equivalent” of conditions already recognized as disqualifying exemptions to the death penalty, such as intellectual disability under *Atkins v. Virginia*, 536 U.S. 304 (2002).

4. In order to avoid a travesty of justice, the undersigned seek an immediate stay of the execution date in this case so that counsel may fully investigate and develop this newly discovered claim and present it in a successor writ under Art. 11.071 of the Texas Code of Criminal Procedure.

WHEREFORE, the gravity of the constitutional violations at issue in this case necessitate that this Honorable Court enter an immediate stay of the execution date in this case to allow time for a fair adjudication of these substantive claims. Given the urgency and complexity of this case, the Applicant, Mark Anthony Soliz, respectfully asks that this Court immediately schedule this motion for a hearing and/or enter an order staying the execution date pending the resolution of the complex issue alleged herein.

Respectfully submitted,

CARLO D'ANGELO
ATTORNEY AT LAW
100 East Ferguson, Suite 1210
Tyler, Texas 75702
Texas Bar No. 24052664
Tel 903.595.6776
Fax 903.407.4119
carlo@dangelolegal.com
Attorney for Petitioner

CERTIFICATE OF COMPLIANCE

This pleading complies with Tex. R. App. P. 9.4. According to the word count function of the computer program used to prepare the document, the brief contains 583 words excluding the items not to be included within the word count limit.



Carlo D'Angelo

Texas Bar No. 24052664

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was delivered via electronic filing to the office of the Johnson County District Attorney on August 9, 2019.



Carlo D'Angelo